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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 7th September, 1966:—

BILL No. 67 OF 1966

A Bill to provide for the separation of judicial and executive functions in the Union territories of Delhi and Himachal Pradesh.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Delhi and Himachal Pradesh (Separation of Judicial and Executive Functions) Act, 1966. Short title, extent and commencement.

(*2*) It extends to the Union territories of Delhi and Himachal Pradesh.

(*3*) It shall come into force in a Union territory on such date as

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the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different areas in the Union territory of Himachal Pradesh and any reference to the commencement of this Act in relation to a Union territory or an area therein shall mean the date on which it comes into force in that Union territory or area.

Definition.

2. In this Act, "Union territory" means the Union territory of Delhi or Himachal Pradesh.

Amendments to Code of Criminal Procedure, 1898.

3. For the purpose of separation of judicial and executive functions, the Code of Criminal Procedure, 1898 shall, in its application to a Union territory, be amended in the manner and to the extent specified in the Schedule. 5 of 1898.

Amendments not to render invalid notifications, etc. before commencement of Act

4. The provisions of this Act which amend the Code of Criminal Procedure, 1898 so as to alter the manner in which, the authority by which, or the law under or in accordance with which, any powers are exercisable, shall not render invalid any notification, order, commitment, attachment, bye-law, rule or regulation duly made or issued or anything duly done before the commencement of this Act, and any such notification, order, commitment, attachment, bye-law, rule or regulation or thing may be revoked, varied or undone in the like manner to the like extent and in the like circumstances, as if it had been duly made, issued or done after the commencement of this Act by the competent authority and in accordance with the provisions then applicable to such case. 5 of 1898

Functions exercisable by Judicial or Executive Magistrates.

5. Where under any law the functions exercisable by a Magistrate relate to matters which involve the appreciation or sifting of evidence or the formulation of any decision which exposes any person to any punishment, or penalty, or detention in custody pending investigation, inquiry or trial or would have the effect of sending him for trial before any Court, such functions shall, subject to the provisions of this Act and the Code of Criminal Procedure, 1898, as amended by this Act, be exercisable by a Judicial Magistrate; and where such functions relate to matters which are administrative or executive in nature, such as the grant of a licence, the suspension or cancellation of a licence, sanctioning a prosecution, or withdrawing from a prosecution, they shall, subject as aforesaid, be exercisable by an Executive Magistrate. 5 of 1898.

Saving

6. (*1*) Save as provided in this section, nothing in this Act shall be deemed to affect—

(*a*) the validity, invalidity, effect or consequence of anything done or suffered to be done before the commencement of this Act;

(*b*) any right, privilege, obligation or liability already acquired, accrued or incurred before such commencement;

(c) any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such commencement;

(d) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed in accordance with the provisions of this Act and the Code of Criminal Procedure, 1898, as amended by this Act.

5 of 1898.

(2) All legal proceedings pending before a Magistrate or Court immediately before the commencement of this Act shall, if such Magistrate or Court ceases to have jurisdiction in respect of such proceedings under the provisions of the Code of Criminal Procedure, 1898, as amended by this Act, stand on such commencement transferred to the Magistrate or Court having jurisdiction under the provisions of the Code of Criminal Procedure, 1898, as amended by this Act and shall be heard and disposed of by such Magistrate or Court and such Magistrate or Court shall have all the powers and jurisdiction in respect thereof as if they had been originally instituted before such Magistrate or in such Court, including the power of the succeeding Magistrate under section 350 of the Code of Criminal Procedure, 1898.

Power to remove difficulties.

7. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the High Court, may by order do anything (including the specification of the appropriate Magistrate, whether Judicial or Executive, having jurisdiction under any law) not inconsistent with such provisions and for the furtherance of the purposes of this Act which appear to it to be necessary or expedient for the purpose of removing the difficulty.

THE SCHEDULE

(*See* section 3)

THE CODE OF CRIMINAL PROCEDURE, 1898

(5 OF 1898)

1. For section 6, the following sections shall be substituted, namely:—

Classes of Criminal Courts.

"6. Besides the High Court and the courts constituted under any law other than this Code for the time being in force, there shall be two classes of Criminal Courts, namely:—

I. Courts of Session.

II. Courts of Magistrates.

A-1. *Classes of Magistrates*

Classes of Magistrates.

6A. There shall be the following classes of Magistrates, namely:—

I. Judicial Magistrates:

(1) Chief Judicial Magistrates.
(2) Judicial Magistrates of the first class.
(3) Judicial Magistrates of the second class.
(4) Special Judicial Magistrates.

II. Executive Magistrates:

(1) District Magistrates.
(2) Sub-divisional Magistrates.
(3) Executive Magistrates of the first class.
(4) Executive Magistrates of the second class.
(5) Special Executive Magistrates.".

2. For section 7, the following section shall be substituted, namely:—

Sessions divisions and districts.

"7. (*1*) Every State shall consist of sessions divisions; and every sessions division shall, for the purposes of this Code, be a district or part of a district or consist of districts.

(*2*) The State Government, in consultation with the High Court, may alter the limits or the number of such divisions and districts.

(*3*) The sessions divisions and districts existing in the Union territory of Delhi or Himachal Pradesh immediately before the commencement of the Delhi and Himachal Pradesh (Separation of Judicial and Executive Functions) Act, 1966, in that Union territory shall be sessions divisions and districts respectively, unless and until they are altered as provided in sub-section (*2*).".

3. In section 9,—

(*i*) in sub-section (*1*), after the words "sessions division, and", the words "in consultation with the High Court," shall be inserted;

(*ii*) in sub-section (*2*), after the words "State Government", the words "in consultation with the High Court" shall be inserted;

(*iii*) in sub-section (*3*), after the words "may also", the words "in consultation with the High Court" shall be inserted; and

(*iv*) in sub-section *4*), after the words "State Government", wherever they occur, the words "in consultation with the High Court" shall be inserted.

4. In section 10,—

(*i*) for the marginal heading, the following shall be substituted, namely:—

"District Magistrate and Chief Judicial Magistrate.";

(*ii*) in sub-section (*1*), for the words "a Magistrate", the words "an Executive Magistrate" shall be substituted; and after that sub-section as so amended, the following sub-sections shall be inserted, namely:—

"(*1A*) In every district the State Government shall, in consultation with the High Court, invest a Judicial Magistrate of the first class with the powers of a Chief Judicial Magistrate under this Code or any other law for the time being in force.

(*1B*) The State Government may, in consultation with the High Court, appoint any Judicial Magistrate of the first class to be an Additional Chief Judicial Magistrate and such Additional Chief Judicial Magistrate shall have all or any of the powers of a Chief Judicial Magistrate referred to in sub-section (*1A*), as the State Government may direct.";

(*iii*) in sub-section (*2*), for the words "any Magistrate of the first class", the words "any Executive Magistrate of the first class" shall be substituted;

(*iv*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) For the purposes of section 88, sub-section (*6C*), section 406B and section 528, sub-sections (*2B*) and (*3*), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate; and for the purposes of section 88, sub-section (*6C*), section 192, sub-section (*1*), section 406B and section 528, sub-sections (*2*) and (*2A*), such Additional Chief Judicial Magistrate shall be deemed to be subordinate to the Chief Judicial Magistrate.".

5. For section 12, the following section shall be substituted, namely:—

Executive and Judicial Magistrates.

"12. (1) **The State Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Executive Magistrates of the first or second class in any district, and the State Government or the District Magistrate, subject to the control of the State Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.**

(2) The State Government, in consultation with the High Court, may confer on any person who is a member of the Judicial Service of the Union territory of Delhi or Himachal Pradesh, the powers of any class of a Judicial Magistrates in any district; and the State Government, in consultation with the High Court, or the Chief Judicial Magistrate, subject to the control of the High Court, may, from time to time, define local areas within which he may exercise all or any of the powers with which he may be invested under this Code.

(3) The State Government, in consultation with the High Court, may, for such period not exceeding three years from the commencement of the Delhi and Himachal Pradesh (Separation of Judicial and Executive Functions) Act, 1966, as it may think fit, appoint as many persons, who are members of a Civil Service in the Union territory of Delhi or Himachal Pradesh or in any State and who are or have been exercising the powers of a Magistrate in such territory or State at or before the commencement of the said Act, as may be considered necessary to be Judicial Magistrates in any district; and the State Government, in consultation with the High Court, may define local areas within which such persons may exercise all or any of the powers with which they may, respectively, be invested under this Code.

(4) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.".

6. In sub-section (*1*) of section 13, for the word "Magistrate", the words "Executive Magistrate" shall be substituted.

7. For section 14, the following section shall be substituted, namely:—

Special Judicial Magistrates.

"14. (*1*) **The State Government may, in consultation with the High Court, confer upon any person who holds or has held any judicial post under the Union or a State, or possesses such other qualifications, as may, in consultation with the High Court,**

be specified in this behalf by the State Government by notification in the Official Gazette, all or any of the powers conferred or conferable by or under this Code on a Judicial Magistrate in respect to particular cases or to a particular class of cases, or in regard to cases generally in any local area. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term as the State Government may, in consultation with the High Court, by general or special order, direct.

Special Judicial Magistrates.

(1) The State Government may also appoint Executive Magistrates for particular areas or for the performance of particular functions and confer on them such powers as it deems fit. Such Magistrates shall be called Special Executive Magistrates and shall be appointed for such term as the State Government may, by general or special order, direct.".

8. For sub-section (*1*) of section 15, the following sub-section shall be substituted, namely:—

Benches of Judicial Magistrates.

"(*1*) The State Government, in consultation with the High Court, may direct any two or more Judicial Magistrates in any place in the Union territory of Delhi or Himachal Pradesh to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferable by or under this Code on a Judicial Magistrate of the first or second class, and direct it to exercise such powers in such cases, or, such classes of cases only, and within such local limits, as the State Government, in consultation with the High Court, thinks fit.".

9. In section 16,—

(*i*) for the words "The State Government may, or, subject to the control of the State Government, the District Magistrate", the words "The High Court subject to the approval of the State Government," shall be substituted; and

(*ii*) for the words "Magistrates' Benches", the words "Judicial Magistrates' Benches" shall be substituted.

10. For section 17, the following sections shall be substituted, namely:—

Subordination of Judicial Magistrates and

"17. (*1*) All Judicial Magistrates appointed under sub-sections (*2*) and (*3*) of section 12, and section 14 and all Benches constituted under section 15, subject to the control of the Sessions

Benches to Chief Judicial Magistrates. and of Chief Judicial Magistrates and Assistant Sessions Judges to Sessions Judge.

Judge, be subordinate to the Chief Judicial Magistrate, and the Chief Judicial Magistrate may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches.

(*2*) All Chief Judicial Magistrates shall be subordinate to the Sessions Judge.

(*3*) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and the Sessions Judge may, from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.

(*4*) The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge, or, if there be no Additional or Assistant Sessions Judge, by the Chief Judicial Magistrate, and such Judge or Magistrate shall have jurisdiction to deal with any such application.

Subordination of Executive Magistrates.

17. (*1*) All Executive Magistrates appointed under sub-section (*1*) of section 12 and section 13 shall be subordinate to the District Magistrate and every Executive Magistrate (other than a Sub-divisional Magistrate) exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

(*2*) The District Magistrate may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among Executive Magistrates subordinate to him and as to allocation of business to an Additional District Magistrate.

Courts inferior to High Court and Court of Session.

17B. Courts of Session and Courts of Judicial and Executive Magistrates shall be Criminal Courts inferior to the High Court and Courts of Judicial and Executive Magistrates shall be Criminal Courts inferior to the Court of Session.".

11. For sub-section (*1*) of section 29, the following sub-section shall be substituted, namely:—

"(*1*) Subject to the other provisions of this Code, any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court

Provided that if the Court so mentioned is a Court specified in column (1) of the Table below, such offence shall be tried by the Court of the Judicial Magistrate specified against it in column (2) thereof.

TABLE

Name of Court specified in the law	Court by which triable
(1)	(2)
1. District Magistrate	Chief Judicial Magistrate.
2. Magistrate of the first class.	Judicial Magistrate of the first class.
3. Sub-divisional Magistrate.	Judicial Magistrate of the first class.
4. Magistrate of the second class.	Judicial Magistrate of the second class.
5. Magistrate of the third class.	
6. Magistrate (except where it occurs in any expression mentioned above).	Judicial Magistrate".

12. In section 29B, for the words "a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the State Government", the words "a Chief Judicial Magistrate or any other Judicial Magistrate specially empowered by the State Government in consultation with the High Court" shall be substituted.

13. For section 30, the following section shall be substituted, namely:—

Offences punishable with imprisonment not exceeding seven years.

"30. Notwithstanding anything contained in section 28 or section 29, the State Government in consultation with the High Court, may invest any Chief Judicial Magistrate or any other Judicial Magistrate of the first class with power to try as a Judicial Magistrate all offences not punishable with death or with imprisonment for life or with imprisonment for a term exceeding seven years:

Provided that no Chief Judicial Magistrate or Judicial Magistrate of the first class shall be invested with such powers unless

he has, for not less than ten years, exercised as a Magistrate powers not inferior to those of a Magistrate of the first class:

Provided further that if any Judicial Magistrate of the first class has, prior to his appointment as such Magistrate, exercised the powers of an Assistant Sessions Judge, he may be invested with the powers under this section notwithstanding the fact that he has not exercised the powers of a Magistrate of the first class for not less than ten years.".

14. In section 32,—

(*a*) in sub-section (*1*),—

(*i*) in the opening sentence, before the word "Magistrates", the word "Judicial" shall be inserted;

(*ii*) in clause (*a*), for the words "Courts of Presidency Magistrates and of Magistrates of the first class:", the words "Courts of Judicial Magistrates of the first class:" and in clause (*b*), for the words "Courts of Magistrates", the words "Courts of Judicial Magistrates" shall be substituted;

(*iii*) clause (*c*) shall be omitted;

(*b*) in sub-section (*2*), for the words "any Magistrate", the words "any Judicial Magistrate" shall be substituted.

15. In section 33, in sub-section (*1*),—

(*i*) in the opening paragraph, for the words "any Magistrate", the words "any Judicial Magistrate" shall be substituted;

(*ii*) in the proviso, in clause (*b*), for the words "by a Magistrate", the words "by a Judicial Magistrate" shall be substituted.

16. In the marginal heading of section 34, for the word "District", the word "Judicial" shall be substituted.

17. In section 36, after the words "District Magistrates,", the words "Chief Judicial Magistrates," shall be inserted; and for the words "Magistrates of the first, second and third classes" the words "Judicial and Executive Magistrates other than Special Judicial or Executive Magistrates" shall be substituted,

18. For sections 37 and 38, the following sections shall be substituted, namely:—

"37. In addition to the ordinary powers,— Additional powers conferable on Magistrates.

(*i*) the State Government, in consultation with the High Court may invest any Judicial Magistrate with any of the powers specified in Part I A of Schedule IV;

(*ii*) a Chief Judicial Magistrate may invest any Judicial Magistrate within his local jurisdiction with the powers specified in Part I B of Schedule IV.

(*iii*) the State Government may invest any Executive Magistrate with any of the powers specified in Part II A of Schedule IV; and

(*iv*) a District Magistrate may invest any Executive Magistrate within his local jurisdiction with the powers specified in Part II B of Schedule IV.

38. The power conferred on the Chief Judicial Magistrate under clause (*ii*) of section 37 shall be exercised subject to the control of the High Court and the State Government and the power conferred on the District Magistrate under clause (*iv*) of that section shall be exercised subject to the control of the State Government.". Exercise of powers under section 37 by Chief Judicial Magistrate or District Magistrate to be subject to control of High Court or State Government.

19. After section 38, the following section shall be inserted, namely:—

"38A. Whenever, under any provisions of this Code or of any other law for the time being in force relating to any of the matters specified in Lists II and III of the Seventh Schedule to the Constitution, any judicial powers are to be conferred on a Sessions Judge, or an Additional or Assistant Sessions Judge or a Chief Judicial Magistrate or any other Judicial Magistrate or any such Magistrate is to be specially empowered to exercise such powers, the orders conferring such powers or empowering Powers on Judicial Magistrates to be conferred in consultation with High Court.

the exercise of such powers shall be made by the State Government in consultation with the High Court notwithstanding that such provision may expressly so provide.

Explanation.—For the purposes of this section, the question whether any powers are judicial shall be decided by the State Government in consultation with the High Court and such decision shall be final.".

20. In sub-section (*1*) of section 39, for the words "the State Government", the words "the State Government, in consultation with the High Court, where necessary," shall be substituted.

21. In section 40, for the words "State Government", occurring for the second time, the words "State Government, in consultation with the High Court, where necessary," shall be substituted.

22. In section 41,—

(*i*) in sub-section (*1*), after the words "the State Government", the words "in consultation with the High Court, where necessary," shall be inserted; and

(*ii*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(2) Any powers conferred by the Chief Judicial Magistrate or the District Magistrate may be withdrawn by him.".

23. In section 57,—

(*i*) in sub-section (*2*), for the words "a Magistrate", the words "a Judicial Magistrate having jurisdiction" shall be substituted;

(*ii*) in sub-section (*3*), for the word "Magistrate", the words "Judicial Magistrate" shall be substituted.

In section 63, for the word "Magistrate", the words "Magistrate having jurisdiction" shall be substituted.

25. For sub-section (*1*) of section 78, the following sub-section shall be substituted, namely:—

"(*1*) A District Magistrate or a Chief Judicial Magistrate or any other Judicial Magistrate of the first class or a Sub-divisional Magistrate may direct a warrant to any landholder, former or manager of land within the area of his jurisdiction

for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.".

26. In section 88,—

(*a*) in sub-section (*2*), after the words "District Magistrate", the words "or Chief Judicial Magistrate" shall be inserted;

(*b*) in sub-section (*6B*), after the words "District Magistrate", the words "or Chief Judicial Magistrate" shall be inserted; and

(c) for the proviso to sub-section (6C), the following proviso shall be substituted, namely:—

"Provided that if it is preferred or made in the Court of a District Magistrate or Chief Judicial Magistrate, he may make it over for disposal to any Magistrate subordinate to him, and such Magistrate shall have all the powers and jurisdiction in respect of such claim or objection as if the order of attachment had been issued by such Magistrate and the claim or objection had been originally preferred or made before him.".

27. In section 95, after the words "District Magistrate", wherever they occur, the words "Chief Judicial Magistrate" shall be inserted.

28. In sub-section (2) of section 96, after the words "District Magistrate", the words "or Chief Judicial Magistrate" shall be inserted.

29. In section 98, after the words "District Magistrate", wherever they occur, the words "Chief Judicial Magistrate" shall be inserted.

30. In sub-section (*1*) of section 106, for the words "Court of a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate", the words "Court of a Chief Judicial Magistrate or any other Judicial Magistrate" shall be substituted.

31. In sections 107, 108 and 109, for the words "Magistrate of the first class" and in section 110, for the words "a Magistrate of the first class", the words "an Executive Magistrate of the first class" shall be substituted.

32. In section 124,—

(*i*) for the words "Chief Presidency", wherever they occur, the words "Chief Judicial" shall be substituted;

(*ii*) in sub-section (*1*), for the words "under this Chapter", the words "under section 118 o , as the case may be, under section 106" shall be substituted; and

(*iii*) in sub-section (*2*), for the words "under this Chapter", the words "under section 106 or, as the case may be, under section 118" shall be substituted.

33. For section 125, the following section shall be substituted, namely:—

Power of Chief Judicial Magistrate and District Magistrate to cancel any bond for keeping the peace or good behaviour.

"125. The Chief Judicial Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace executed under section 106 and the District Magistrate may at any time likewise cancel any bond for keeping the peace or for good behaviour executed under section 118 by order of any Court in his district not superior to his Court.".

34. In section 126,—

(*i*) in sub-section (*1*), for the words "to a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class", the words "to the Court by which an order to give security was made under section 106 or section 118" shall be substituted; and

(*ii*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(2) On such application being made, the Court shall issue summons or warrant, as it thinks fit, requiring the person for whom such surety is bound to appear or to be brought before it.".

35. In sections 127, 128, 129, and 132, for the word "Magistrate", wherever it occurs, the words "Executive Magistrate" shall be substituted and in sections 130 and 131, for the words "a Magistrate", the words "an Executive Magistrate" shall be substituted.

36. In section 133,—

(*i*) in the opening paragraph of sub-section (*1*) and in sub-section (*2*), for the words "a Magistrate", the words "an Executive Magistrate" shall be substituted; and

(*ii*) in the closing paragraph of sub-section (*1*), for the words "Magistrate of the first or second class", the words "Executive Magistrate" shall be substituted.

37. In section 143, for the words "any other Magistrate", the words "any other Executive Magistrate" shall be substituted.

38. In sub-section (*1*) of section 144, for the words and brackets "any other Magistrate (not being a Magistrate of the third class)", the words "any other Executive Magistrate" shall be substituted.

39. In sub-section (*1*) of section 145 and sub-section (*1*) of section 147, for the words "Magistrate of the first class", the words "Executive Magistrate of the first class" shall be substituted.

40. In sub-section (*1*) of section 155, the words "having power to try such case or commit the same for trial" shall be inserted at the end.

41. For sub-section (*1*) of section 164, the following sub-section shall be substituted, namely:—

"(*1*) Any Executive Magistrate of the first class and any Executive Magistrate of the second class (not being a police officer) specially empowered in this behalf by the State Government, and any Judicial Magistrate of the first class or any Judicial Magistrate of the second class specially empowered in this behalf by the State Government in consultation with the High Court, may record any statement or confession made to him in the course of an investigation under this Chapter or under any other law for the time being in force or at any time afterwards before the commencement of the inquiry or trial.".

42. In section 167,—

(*i*) for the proviso to sub-section (*2*), the following proviso shall be substituted, namely:—

"Provided that no Executive or Judicial Magistrate of the second class not specially empowered in this behalf by the State Government in consultation with the High Court, where necessary, shall authorise detention in the custody of the police."; and

(*ii*) for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(*4*) If such order is given by an Executive Magistrate other than the District Magistrate or Sub-divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately

subordinate and if such order is given by a Judicial Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.".

43. In sub-section (3) of section 170, for the words "District Magistrate or Sub-divisional Magistrate", the words "Chief Judicial Magistrate" shall be substituted.

44. In sub-section (5) of section 174, for the words "Magistrate of the first class and any Magistrate", the words "Executive Magistrate of the first class and any other Executive Magistrate" shall be substituted.

45. In sub-section (1) of section 186, for the words "a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the State Government, a Magistrate of the first class", the words "a District Magistrate, a Chief Judicial Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the State Government in consultation with the High Court, where necessary, an Executive or Judicial Magistrate of the first class" shall be substituted.

46. In sub-section (1) of section 187, for the words "a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate", the words "a District Magistrate or Chief Judicial Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate, or, as the case may be, to the Chief Judicial Magistrate" shall be substituted.

47. In section 190,—

(i) in sub-section (1), for the words, "any Presidency Magistrate, District Magistrate or Sub-divisional Magistrate and any other Magistrate", the words "any Chief Judicial Magistrate and any other Judicial Magistrate" shall be substituted;

(ii) in sub-section (2), for the words "the State Government, or the District Magistrate, subject to the general or special orders of the State Government, may empower any Magistrate", the words "the State Government in consultation with the High Court, or the Chief Judicial Magistrate, subject to the general or special orders of the High Court, may empower any other Judicial Magistrate" shall be substituted; and

(iii) in sub-section (3), for the words "State Government may empower any Magistrate", the words "State Government, in

consultation with the High Court, may empower any Judicial Magistrate" shall be substituted.

48. In section 192,—

(*i*) in sub-section (*1*), for the words "Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate", the words "Any Chief Judicial Magistrate" shall be substituted; and

(*ii*) in sub-section (*2*), for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.

49. In sub-section (*2*) of section 193, for the words "the State Government", the words "the State Government, in consultation with the High Court," shall be substituted.

50. In section 196B, for the words "Chief Presidency Magistrate", the words "Chief Judicial Magistrate" shall be substituted.

51. In sub-section (*1*) of section 206, for the words and brackets "Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class or any Magistrate (not being a Magistrate of the third class empowered in this behalf by the State Government,", the words "Any Chief Judicial Magistrate or a Judicial Magistrate of the first class or any Judicial Magistrate of the second class empowered in this behalf by the State Government, in consultation with the High Court," shall be substituted.

52. In section 249, for the words "a Presidency Magistrate, a Magistrate of the first class, or, with the previous sanction of the District Magistrate, any other Magistrate", the words "a Judicial Magistrate of the first class, or, with the previous sanction of the Chief Judicial Magistrate, any Judicial Magistrate of the second class" shall be substituted.

53. In sub-section (*3*) of section 250, the words "or third" shall be omitted.

54. In the opening paragraph of sub-section (*1*) of section 260, for clauses (*a*), (*b*) and (*c*), the following clauses shall be substituted, namely:—

"(*a*) the Chief Judicial Magistrate,

(*b*) any Judicial Magistrate of the first class specially empowered in this behalf by the State Government, in consultation with the High Court, and

(*c*) any Bench of Judicial Magistrates invested with the powers of a Judicial Magistrate of the first class and specially empowered in this behalf by the State Government in consultation with the High Court,".

55. In section 261,—

(*i*) in the marginal heading, for the words "Bench of Magistrates", the words "Bench of Judicial Magistrates" shall be substituted;

(*ii*) in the opening paragraph, for the words "State Government may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class", the words "State Government in consultation with the High Court may confer on any Bench of Judicial Magistrates invested with the powers of a Judicial Magistrate of the second class" shall be substituted.

56. In section 263, for the words "Bench of Magistrates", the words "Bench of Judicial Magistrates" and for the words "the State Government", the words "the High Court" shall respectively be substituted.

57. In sub-section (*2*) of section 265, for the words "The State Government may authorize any Bench of Magistrates", the words "The State Government, in consultation with the High Court, may authorise any Bench of Judicial Magistrates" shall be substituted.

58. In sub-sections (*1*) and (*2*) of section 269, after the words "State Government", the words "in consultation with the High Court," shall be inserted.

59. In section 337, in sub-section (*1*),—

(*i*) in the opening paragraph, for the words "a Presidency Magistrate, a Sub-divisional Magistrate", the words "the Chief Judicial Magistrate" shall be substituted;

(*ii*) for the proviso, the following proviso shall be substituted, namely:—

"Provided that where the offence is under inquiry or trial, no Magistrate of the first class other than the Chief Judicial Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no Magistrate of the first class other than the District Magistrate or the Chief Judicial Magistrate shall exercise the power unless he is the Judicial Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the Chief Judicial Magistrate has been obtained to the exercise thereof.".

60. In section 338, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.

61. In sub-section (*1*) of section 346, after the words "District Magistrate", the words "or the Chief Judicial Magistrate, as the case may be," shall be inserted.

62. In section 349,—

(*i*) in sub-section (*1*),—

(*a*) for the words "a Magistrate of the second or third class", the words "a Judicial Magistrate of the second class" shall be substituted; and

(*b*) for the words "District Magistrate or Sub-divisional Magistrate", the words "Chief Judicial Magistrate" shall be substituted; and

(*ii*) in sub-section (*1A*), for the words "District Magistrate or Sub-divisional Magistrate", the words "Chief Judicial Magistrate" shall be substituted.

63. For section 373, the following section shall be substituted, namely:—

"373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate and the Chief Judicial Magistrate within the local limits of whose jurisdiction the trial was held.". Court of Session to send copy of finding and sentence to District Magistrate and Chief Judicial Magistrate.

64. In section 380, for the words "Magistrate of the first class or a Sub-divisional Magistrate", the words "Judicial Magistrate of the first class" shall be substituted.

65. For section 406A, the following sections shall be substituted, namely:—

"406A. Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order,— Appeal from order refusing to accept or rejecting a surety.

(*a*) if made by the District Magistrate or the Chief Judicial Magistrate, to the Court of Session;

(*b*) if made by an Executive Magistrate other than the District Magistrate, to the District Magistrate; and

(*c*) if made by a Judicial Magistrate other than the Chief Judicial Magistrate, to the Chief Judicial Magistrate.

Transfer of appeal to Additional District Magistrate or to Additional Chief Judicial Magistrate.

406B. The District Magistrate or the Chief Judicial Magistrate may transfer any appeal presented to him under section 406A to an Additional District Magistrate or to the Additional Chief Judicial Magistrate, as the case may be, and such Additional District Magistrate or Additional Chief Judicial Magistrate may hear and dispose of the appeal.".

66. In section 408, for the words and figures "a District Magistrate or any other Magistrate, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by any Magistrate", the words "or a Judicial Magistrate or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Judicial Magistrate" shall be substituted.

67. In section 409,—

(*i*) in the proviso to sub-section (*1*), the words "or third" shall be omitted; and

(*ii*) in sub-section (*2*), for the words "State Government", the words "State Government, in consultation with the High Court," shall be substituted.

68. In section 412, for the words "Magistrate of the first class", the words "Judicial Magistrate of the first class" shall be substituted.

69. In section 413, for the words "or District Magistrate or other Magistrate", the words "or Chief Judicial Magistrate or other Judicial Magistrate" shall be substituted.

70. In sub-section (*1*) of section 425, for the words "District Magistrate", wherever they occur, the words "Chief Judicial Magistrate" shall be substituted, and the words "and a copy thereof shall be forwarded to the District Magistrate" shall be inserted at the end.

71. In sub-section (*1*) of section 428, for the word "Magistrate" wherever it occurs, the words "Judicial Magistrate" shall be substituted.

72. For section 435, the following section shall be substituted, namely:—

Power to call for records of inferior Courts.

"435 (*1*) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction and any Chief Judicial Magistrate may call for and examine the record of any proceedings before any Judicial Magistrate under his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court or such Magistrate, as the case may be, and may, when calling for such record direct that the execution of any sentence or order be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

(*2*) The District Magistrate or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceedings before any Subordinate Executive Magistrate for the purpose of satisfying himself as to the correctness, legality or propriety of any order recorded or passed, and as to the regularity of any proceedings of such Subordinate Magistrate and may, when calling for such record, direct that the execution of any order be suspended and if the person is in confinement he be released on bail on his own bond pending the examination of the record.

(*3*) If any Sub-divisional Magistrate acting under sub-section (*2*) considers that any such proceeding or order is illegal or improper he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

(*4*) The High Court may call for and examine the record of any proceeding under section 118, 122, 143, 144 or 145, notwithstanding the fact that such proceeding was before an Executive Magistrate.

(*5*) If an application in respect of any proceeding before any Judicial Magistrate other than the Chief Judicial Magistrate has been made under sub-section (*1*) either to the Sessions Judge or the Chief Judicial Magistrate, no further application shall be entertained by the other of them and if an application in respect of any proceeding before any Executive Magistrate has been made to the Sessions Judge under sub-section (*1*) or to the District Magistrate under sub-section (*2*) no further application shall be entertained by the other of them

73. Section 436 shall be re-numbered as sub-section (*1*) thereof, and—

(*i*) in sub-section (*1*) as so re-numbered—

(*a*) for the words "District Magistrate", wherever they occur, the words "Chief Judicial Magistrate" shall be substituted;

(*b*) in the proviso, for the word "section", the word "sub-section" shall be substituted;

(*ii*) after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) On examining any record under section 435 or otherwise, the District Magistrate may direct any Sub-divisional Magistrate or any other Magistrate subordinate to him to make, and the Sub-divisional Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any proceeding in which an order of release or discharge has been made under section 119:

Provided that no District Magistrate shall make any direction under this sub-section for further inquiry into the case of any person who has been released or discharged unless such person has had an opportunity of showing cause why such direction should not be made.".

74. In section 437, for the words "District Magistrate", wherever they occur, the words "Chief Judicial Magistrate" shall be substituted.

75. In section 438,—

(*i*) in sub-section (*1*), for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted; and

(*ii*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) The District Magistrate, on examining under section 435 or otherwise the record of any proceeding,—

(*a*) shall, if such proceeding is in respect of an order under section 118, 122, 143, 144 or 145 and if he thinks that the order made in such proceeding should be reversed or altered, report for the orders of the High Court the result of such examination;

(*b*) may, if such proceeding is in respect of an order made under any other section, exercise, subject to the provisions of sub-section (*2*) of section 436, any of the powers conferred on a Court of appeal by sections 423, 426, 427 and 428.".

76. In sub-section (*3*) of section 439, for the words "a Magistrate of the first class", the words "a Judicial Magistrate of the first class" shall be substituted.

77. In section 479, for the words "Presidency Magistrate, District Magistrate or other Magistrate", the words "Chief Judicial Magistrate or any other Judicial Magistrate" shall be substituted.

78. In sub-section (*1*) of section 488, for the words "District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or a Magistrate", the words "Chief Judicial Magistrate or any other Judicial Magistrate" shall be substituted.

79. In sub-section (*2*) of section 512, for the words "any Magistrate of the first class", the words "any Judicial Magistrate of the first class" shall be substituted.

80. For section 515, the following section shall be substituted namely:—

"515. All orders under section 514 shall be appealable— Appeal from, and revision of, orders under section 514.

(*i*) to the District Magistrate, if passed by an Executive Magistrate; and

(*ii*) to the Chief Judicial Magistrate, if passed by a Judicial Magistrate,

or if not so appealed, may be revised by such District Magistrate or, as the case may be, by the Chief Judicial Magistrate."

81. In section 524,—

(*i*) in sub-section (*1*), for the words "a Magistrate of the first class", the words "Executive Magistrate of the first class" shall be substituted; and

(*ii*) in sub-section (*2*), for the words "to the Court to which appeals against sentences of the Court passing such order would lie", the words "to the Sessions Judge" shall be substituted.

82. In section 528,—

(*i*) in sub-section (*2*),—

(*a*) for the words "Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate", the words

"The Chief Judicial Magistrate" shall be substituted; and

(*b*) for the marginal heading, the following shall be substituted, namely:—

"Chief Judicial Magistrate may withdraw or refer cases.";

(*ii*) after sub-section (*2*), the following sub-sections, shall be inserted, namely:—

Power to authorise Chief Judicial Magistrate to withdraw classes of cases.

"(*2A*) The State Government, in consultation with the High Court, may authorise the Chief Judicial Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

District Magistrate may withdraw or refer cases.

(*2B*) Any District Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into such case himself, or refer it for inquiry to any other such Magistrate competent to inquire into the same.".

83. In sub-section (*2*) of section 559, for the words "the Chief Presidency Magistrate in a Presidency-town, and the District Magistrate outside such towns", the words "the Chief Judicial Magistrate in the case of Judicial Magistrates and the District Magistrate in the case of Executive Magistrates" shall be substituted.

84. In section 561, for the words "a Chief Presidency Magistrate or District Magistrate", wherever they occur, the words "a Chief Judicial Magistrate" shall be substituted.

85. In the proviso to sub-section (*1*) of section 562,—

(*i*) for the words "Magistrate of the third class, or a Magistrate of the second class not specially empowered by the State Government", the words "Judicial Magistrate of the second class not specially empowered by the State Government in consultation with the High Court" shall be substituted; and

(*ii*) for the words "Magistrate of the first class or Sub-divisional Magistrate", the words "Judicial Magistrate of the first shall be substituted.

86. In section 565,—

(*i*) in sub-section (*1*), for the words "Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate", the

words "Chief Judicial Magistrate or any other Judicial Magistrate" shall be substituted;

(*ii*) in sub-section (*3*), after the words "State Government", the words "in consultation with the High Court" shall be inserted; and

(*iii*) in sub-section (*5*), for the word "Magistrate", the words "Judicial Magistrate" shall be substituted.

87. In Schedule II, in column 8,—

(*i*) for the word "Magistrate", wherever it occurs except in the expression "Presidency Magistrate", the words "Judicial Magistrate", and for the words "Any Magistrate", wherever they occur, the words "Any Judicial Magistrate" shall be substituted;

(*ii*) for the entry against section 124A, the following entry shall be substituted, namely:—

"Court of Session, Chief Judicial Magistrate or any other Judicial Magistrate of the first class specially empowered by the State Government, in consultation with the High Court in that behalf."; and

(*iii*) in the entry relating to section 376, for the words "Chief Presidency Magistrate or District Magistrate", the words "or Chief Judicial Magistrate" shall be substituted.

88. For Schedules *III* and IV, the following Schedules shall be substituted, namely:—

"SCHEDULE III

(*See* section 36)

ORDINARY POWERS OF STATE MAGISTRATES

I.—*Ordinary powers of a Judicial Magistrate of the second class*

(1) Power to arrest or direct the arrest of, and to commit to custody, a person committing an offence in his presence, section 64.

(2) Power to arrest, or direct the arrest in his presence of, an offender, section 65.

(3) Power to endorse a warrant, or to order the removal of an accused person arrested under warrant, sections 83, 84 and 86.

(4) Power to issue proclamations in cases judicially before him, section 87.

(5) Power to attach and sell property and to dispose of claims or objections to attached property, section 88.

(6) Power to restore attached property, section 89.

(7) Power to require search to be made for letters and telegrams, section 95.

(8) Power to issue search warrant, section 96.

(9) Power to endorse a search warrant and order delivery of thing found, section 99.

(10) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.

(11) Power to authorise detention, not being detention in the custody of the police, of a person during a police investigation, section 167.

(12) Power to postpone issue of process and to inquire into a case or direct investigation, section 202.

(13) Power to detain an offender found in Court, section 351

(14) Power to take evidence on commission, section 503.

(15) Power to recover forfeited bond for appearance before Magistrate's Court, section 514, and to require fresh security, section 514A.

(16) Power to make order as to custody and disposal of property pending inquiry or trial, section 516A.

(17) Power to make order as to disposal of property, section 517.

(18) Power to sell property of a suspected character, section 525.

(19) Power to require affidavit in support of application, section 539A.

(20) Power to make local inspection, section 539B.

II.—*Ordinary powers of a Judicial Magistrate of the first class*

(1) The ordinary powers of a Judicial Magistrate of the second class.

(2) Power to direct warrant to land-holders, section 78.

(3) Power to issue search warrant otherwise than in due course of an inquiry, section 98.

(4) Power to issue search warrant for discovery of persons wrongfully confined, section 100.

(5) Power to require execution of a bond, section 106.

(6) Power to discharge sureties, section 126A.

(7) Power to record statements and confessions during a police investigation, section 164.

(8) Power to authorise detention of a person in the custody of the police during a police investigation, section 167.

(9) Power to commit for trial, section 206.

(10) Power to stop proceedings when no complainant, section 249.

(11) Power to tender pardon to accomplice during inquiry into case by himself, section 337.

(12) Power to make orders of maintenance, sections 488 and 489.

(13) Power to recall case made over by him to another Magistrate, section 528

(14) Power to make order as to first offenders, section 562.

(15) Power to order released convicts to notify residence, section 565.

III.—*Ordinary powers of a Chief Judicial Magistrate*

(1) The ordinary powers of a Judicial Magistrate of the first class.

(2) Power to try juvenile offenders, section 29B.

(3) Power to require delivery of letters, telegrams, etc., section 95.

(4) Power to issue search warrants for documents in custody of postal or telegraph authorities, section 96.

(5) Power to release persons imprisoned for failure to give security under section 106, section 124.

(6) Power to cancel any bond for keeping the peace under section 106, section 125.

(7) Power to order police investigation into a cognizabl e case, section 156.

(8) Power to issue process for a person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.

(9) Power to entertain complaints, section 190.

(10) Power to receive police reports, section 190.

(11) Power to entertain cases without complaint, section 190.

(12) Power to transfer cases to a Subordinate Magistrate, section 192.

(13) Power to order preliminary investigation by a police officer not below the rank of an Inspector in certain cases, section 196B.

(14) Power to try summarily, section 260.

(15) Power to tender pardon to accomplice at any stage of a case, section 337.

(16) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.

(17) Power to call for records, section 435.

(18) Power to order inquiry, section 436.

(19) Power to order commitment, section 437.

(20) Power to report case to High Court, section 438.

(21) Power to withdraw cases and to try or refer them for trial, section 528.

IV.—*Ordinary powers of an Executive Magistrate of the second class*

(1) Power to arrest or direct the arrest of, and to commit to custody, a person committing an offence in his presence, section 64.

(2) Power to arrest, or direct the arrest in his presence of, an offender, section 65.

(3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86.

(4) Power to issue proclamations, section 87.

(5) Power to attach and sell property, section 88.

(6) Power to restore attached property, section 89.

(7) Power to require search to be made for letters and telegrams, section 95.

(8) Power to issue search warrants, section 96.

(9) Power to endorse a search warrant and order delivery of thing found, section 99.

(10) Power to command unlawful assembly to disperse, section 127.

(11) Power to use civil force to disperse unlawful assembly, section 128.

(12) Power to require military force to be used to disperse unlawful assembly, section 130.

(13) Power to authorise detention not being detention in the custody of the police, of a person during a police investigation, section 167.

(14) Power to take evidence on commission, section 503.

(15) Power to recover forfeited bond for appearance before Magistrate's Court, section 514, and to require fresh security, section 514A.

(16) Power to make order as to disposal of property, section 517.

(17) Power to sell property of a suspected character, section 525.

V.—*Ordinary powers of an Executive Magistrate of the first class*

(1) The ordinary powers of an Executive Magistrate of the second class.

(2) Power to issue search warrant otherwise than in course of an inquiry, section 98.

(3) Power to issue search warrant for discovery of persons wrongfully confined, section 100.

(4) Power to require security to keep the peace, section 107.

(5) Power to require security for good behaviour, section 109.

(6) Power to discharge sureties, section 126A.

(7) Power to make orders as to local nuisances, section 133.

(8) Power to make orders, etc., in possession cases, sections 145, 146 and 147.

(9) Power to authorise detention of a person in the custody of the police during a police investigation, section 167.

(10) Power to hold inquests, section 174.

VI.—*Ordinary powers of a Sub-divisional Magistrate*

(1) The ordinary powers of an Executive Magistrate of the first class.

(2) Power to direct warrants to land-holders, section 78.

(3) Power to require security for good behaviour, section 110.

(4) Power to make orders prohibiting repetitions of nuisances, section 143.

(5) Power to make orders under section 144.

(6) Power to depute Subordinate Executive Magistrate to make local inquiry, section 148.

(7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.

(8) Power to sell property alleged or suspected to have been stolen, etc., section 524.

VII.—*Ordinary powers of a District Magistrate*

(1) The ordinary powers of a Sub-divisional Magistrate.

(2) Power to require delivery of letters, telegrams, etc., section 95.

(3) Power to issue search warrants for documents in custody of postal or telegraph authorities, section 96.

(4) Power to require security for good behaviour, section 108.

(5) Power to discharge persons bound to keep the peace or to be of good behaviour under section 118, section 124.

(6) Power to cancel bond for keeping the peace or to be of good behaviour under section 118, section 125.

(7) Power to order preliminary investigation by police officer not below the rank of Inspector in certain cases, section 196 B.

(8) Power to tender pardon to accomplice at the stage of investigation, section 337.

(9) Power to call for and examine records, section 435 (2)

(10) Power to direct Executive Magistrate to make further inquiry into proceedings, etc., section 436(2).

(11) Power to report case to High Court, section 438 (3)

(12) Power to appoint person to be Public Prosecutor in particular case, section 492 .

(13) Power to compel restoration of abducted female, section 552.

SCHEDULE IV

(*See* sections 37 and 38)

ADDITIONAL POWERS WITH WHICH STATE MAGISTRATES MAY BE INVESTED

PART I

A.—BY THE STATE GOVERNMENT IN CONSULTATION WITH THE HIGH COURT

Powers with which a Judicial Magistrate of the first class may be invested

(1) Power to try juvenile offenders, section 29B.

(2) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.

(3) Power to take cognizance of offences upon complaint, section 190.

(4) Power to take cognizance of offences upon police reports, section 190.

(5) Power to take cognizance of offences without complaint, section 190.

(6) Power to try summarily, section 260.

(7) Power to try cases under section 124A of the Indian Penal Code.

Powers with which a Judicial Magistrate of the second class may be invested

(1) Power to try juvenile offenders, section 29B.

(2) Power to record statements and confessions during a police investigation, section 164.

(3) Power to authorise detention of a person in the custody of the police during a police investigation, section 167.

(4) Power to take cognizance of offences upon complaint, section 190.

(5) Power to take cognizance of offences upon police reports, section 190.

(6) Power to take cognizance of offences without complaint, section 190.

(7) Power to commit for trial, section 206.

(8) Power to make orders as to first offenders, section 562.

B.—BY THE CHIEF JUDICIAL MAGISTRATE

Powers with which any Judicial Magistrate of the first class may be invested.

(1) Power to take cognizance of offences upon complaint, section 190.

(2) Power to take cognizance of offences upon police reports, section 190.

(3) Power to transfer cases, section 192.

Powers with which any Judicial Magistrate of the second class may be invested

(1) Power to take cognizance of offences upon complaint, section 190.

(2) Power to take cognizance of offences upon police reports, section 190.

PART II

A.—BY STATE GOVERNMENT

Powers with which a Sub-divisional Magistrate may be invested

Power to call for records of inferior courts and to forward them to the District Magistrate, sub-sections (*2*) and (*3*) of section 435.

Powers with which an Executive Magistrate of the first class may be invested

(1) Power to require security for good behaviour in case of sedition, section 108.

(2) Power to require security for good behaviour, section 110.

(3) Power to make orders prohibiting repetitions of nuisances, section 143.

(4) Power to make orders under section 144.

(5) Power to issue process for person within local jurisdiction, who has committed an offence outside the local jurisdiction, section 186.

(6) Power to sell property alleged or suspected to have been stolen, etc., section 524.

Powers with which an Executive Magistrate of the second class may be invested

(1) Power to make orders prohibiting repetitions of nuisances, section 143.

(2) Power to make orders under section 144.

(3) Power to record statements and confessions during a police investigation, section 164.

(4) Power to authorise detention of a person in the custody of the police during a police investigation, section 167.

(5) Power to hold inquests, section 174.

B.—BY THE DISTRICT MAGISTRATE

Powers with which any Executive Magistrate of the first class may be invested

(1) Power to make orders prohibiting repetition of nuisances, section 143.

(2) Power to make orders under section 144.

Powers with which any Executive Magistrate of the second class may be invested

(1) Power to make orders prohibiting repetitions of nuisances, section 143.

(2) Power to make orders under section 144.

(3) Power to hold inquests, section 174."

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to separate the judiciary from the executive in the matter of administration of criminal law in the Union territories of Delhi and Himachal Pradesh and has been brought forward in compliance with the directive principles of State policy embodied in article 50 of the Constitution. The object is sought to be achieved by amendment of the Code of Criminal Procedure, 1898 (*vide* clause 3 and the Schedule) by providing for the classification of the magistracy into Judicial Magistrates and Executive Magistrates and for the appointment of members of the Judicial Service as Judicial Magistrates with the approval of the High Court. The Bill seeks to make changes in the various provisions of the Code with a view to giving effect to this classification and contains the necessary transitional and saving provisions. The Bill also sets out the respective cases other than those specifically covered by the proposed amendments to the Code, in which functions shall be exercisable under any law by Judicial and Executive Magistrates. Power has also been taken for the removal of difficulties, if any, in giving effect to the provisions of the Bill after it becomes an Act.

NEW DELHI; G. L. NANDA.
The 19th July, 1966.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 13/1/65-UTL, dated the 27th July, 1966 from Shri Jai Sukh Lal Hathi, Minister of State in the Ministry of Home Affairs to the Secretary, Lok Sabha].

The President having been informed of the subject matter of the Bill to provide for the separation of Judicial and Executive functions in the Union territories of Delhi and Hamachal Pradesh, recommends, under clause (3) of article 117 of the Constitution, the consideration of the said Bill in the Lok Sabha.

FINANCIAL MEMORANDUM

Section 12 of the Code of Criminal Procedure, 1898, as proposed to be modified by paragraph 5 of the Schedule to the Bill, read with clause 3 thereof, seeks to provide for appointment of Executive Magistrates and for confernment of powers of any class of a Judicial Magistrate on members of the judicial service of the Union territory of Delhi or Himachal Pradesh. The said paragraph of the Schedule also provides that during the first three years persons who are members of a civil service in the Union territory of Delhi or Himachal Pradesh or any State and are or have been exercising the powers of a Magistrate in such territory or State may be appointed as Judicial Magistrates.

Section 14 of the Code, as proposed to be modified by paragraph 7 of that Schedule, makes provision for appointment of Special Judicial Magistrates and Special Executive Magistrates.

The scheme of the Bill, in effect, involves the classification, at the initial stage, of the existing Magistrates in the two Union territories into Executive and Judicial Magistrates and no additional expenditure would be involved on this account. It is intended that the future strength of the judicial service in the two Union territories will be determined before the expiry of the transitional period of three years and this will be done after assessing the actual requirements in the light of the working of the scheme of separation for some time. As a result of this determination, some additional expenditure may be involved. Such expenditure may ultimately be of the order of Rs. 2 lakhs (non-recurring) and Rs. 12 lakhs per annum recurring) in the case of Delhi and Rs. 1·50 lakhs (non-recurring) and Rs. 11 lakhs per annum recurring) in the case of Himachal Pradesh. The expenditure in the case of Delhi will be met from the Consolidated Fund of India and that in the case of Himachal Pradesh from the Consolidated Fund of that Union territory. The Punjab Separation of Judicial and Executive Functions Act, 1964, is already in force in the whole of the State of Punjab except in the scheduled areas of Lahaul and Spiti and the transfer of certain areas of the existing Punjab to the Union territory of Himachal Pradesh as a result of the contemplated reorganisation of that State would not involve any additional expenditure.

D-640
29.12.67

S. L. SHAKDHER,
Secretary.

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